

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

October 3, 2006 Minutes

Present: Raymond Arsenault, Gabriella Halmi, Jina Karempetsos, Arthur Russo, Jr., David Gobeille, Nicholas Rampone, Town Solicitor Jack Gannon

Excused: Kristen Rao

Minutes

Chairman Arsenault asked if there any corrections to the September 3, 2006 Minutes. Motion made by Member Russo to accept the Minutes as presented. Motion seconded by Member Rampone Motion carried with a 5-0 vote.

Correspondence

None

Applications

A.F. Homes, P.O. Box 2312, Pawtucket, RI – Application for Use Variance to convert vacant existing mill building into 48 condominium units on property located at 90 Industrial Circle, Lincoln, RI

AP 2, Lot 82 Zoned: MG 0.5

Town Solicitor Mark Krieger recused himself from this application. Jack Gannon, Esquire sat as Board Counsel. Member Russo sat on this application with full privileges.

Represented by: Michael Kelly, Esquire, 55 Pine Street, Providence, RI

Russell Hervieux, Zoning Official received a returned notice and contacted Attorney Kelly regarding Plat 3, Lot 32 who took care of proper notice. Attorney Kelly informed the Board that he had the abutters properly served by a constable personally and submitted the returns of service for review by the Board. Attorney Gannon reviewed the returns of service stated this served as sufficient notice.

Chairman Arsenault read into the record standards that need to be met for a Use Variance.

Attorney Kelly stated applicant owns the mill building which has some environmental issues that will be cleared. Property is located adjacent to other mills in the area who have appeared before this Board seeking relief. Applicant has unsuccessfully tried to lease the premises over the past nine years. They are proposing 48 one and two bedroom condominium units which will conform to the Town's Comprehensive Plan. Owner of the mill site is Jason Yu, 1 Christopher Drive, Lincoln, RI. He is a principal of the business and

has owned the site for nine years and uses the site for personal storage. Real estate brokers have been unsuccessful in leasing the building. There are some proposals and regulations before the Town Council regarding mill districts. They wanted to wait until those regulations were passed but because he is under time constraints they are before the Board this evening seeking a Use Variance.

Witness

Jason Yu, 1 Christopher Drive, Lincoln, RI

Mr. Yu is the owner of the site. He is a principal of the company has owned the building for 9 years. He engaged a broker to try and lease space but they have been unable to do so for any uses allowed in a manufacturing zone.

Ron Lemieux, Cataldo Associates

Registered Professional Engineer for 12 years; Civil Engineer for 32 years.

Motion made by Member Halmi to accept Mr. Lemieux as an expert witness. Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote.

Witness designed the site parking layout. Proposed building is two stories high on a 2 acre lot with 20,800 sq ft on each floor. Applicant

has provided for 108 parking spaces for tenants and visitors – more than what is required. 30 feet has been allocated in front of the building for emergency vehicles. Landscaping will be provided at the front of the site with a fence along Walker Street. Access to the site will be on Industrial Circle. There is sufficient water and sewer access with no drainage issues. Next step would be to appear before the Planning Board with concept plans; then preliminary plans; and final plans when all engineering issues are addressed and reviewed by Town staff. There are some asbestos problems inside the building and witness was not sure about lead issues. Asbestos issues will be addressed. Member Gobeille asked if there would be a play area designated for children who may live there and applicant replied “no” provisions had been made.

Ron Cataldo, CE, Cataldo Associates

Registered Professional Engineer; prepared traffic study. Has appeared before this Board in the past.

Motion made by Member Russo to accept Mr. Cataldo as an expert witness. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Witness performed a traffic impact analysis in accordance with Institute Transportation Engineers Guidelines (ITE). Traffic count at the site included existing traffic. He estimated a 48 unit condominium would create 29 trips in the am and 37 trips in the pm with total daily trips at approximately 344. Traffic in the area is very light – 1 vehicle

every one to two minutes during peak times. According to IT practices, this will not change any of the levels of service. He took five year horizon with existing traffic counts and expanded them according to RIDOT practices of 1.13% increase per year and increased the existing traffic for five years using 1.12%. There is congestion at the approach of Walker Street and Smithfield Avenue. RIDOT is currently in the process of planning to alleviate this problem and should be in effect by the school year for 2007 which will relieve the congesting at this location. A count was done during peak hours on Industrial Circle and found 5 trucks in the am and 2 in the pm. He sees no conflicts with a residential complex and truck traffic. Sidewalks are located on Walker Street and Industrial Circle.

No change in any level of service. Peak hour studies on Walker Street and Industrial Circle showed total of 50 trucks over several hours – approximately 10%. Other vehicles also travel along this route. He is projecting approximately 800 total daily trips over Industrial Circle in a twenty four hour period.

Edward Pimental, AICP

Has appeared before this Board in the past. Motion made by Member Halmi to accept Mr. Pimental as an expert witness. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

He prepared a report which addressed compliance with the Town's Comprehensive Plan (Submitted into the record as Exhibit #1) He

listed in the report all land uses that would be permissible in this manufacturing zone. A broker has been trying to obtain tenants for applicant but has been unable because of the existing infrastructure. They are trying to market this as what would be most compatible if it cannot be used as permissible land. In the proposed mill conversion overlay district Section 260-49 it states that the purpose of this is to create an overlay district to allow housing opportunities and this would be allowed by special use so they are here for a use variance. The character of the surrounding neighborhood would support the conversion. Right now the surrounding neighborhood has been converted to residential. The Comprehensive Plan is trying to maintain a ratio of 1/3 multi family to 2/3 single family. Some of the other proposed uses for this site are listed on page 10 of his report (laundry dry cleaning plan, heliport, storage of sand and gravel, electric co-generation plant, etc.)

Attorney Kelly informed the Board that 10% of the units would be low affordable housing to help satisfy some of the requirements.

Joseph Lombardo, AICP

Has testified before this Board in the past. Motion made by Member Karempetsos to accept Mr. Lombardo as an expert witness. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.

Mr. Lombardo prepared a fiscal impact study which determined the

projected number of school age population together with projected tax benefits to the community using a per capita multiplier utilizing current budgets of \$739 per person and \$11,937 per student. He estimated a net revenue to the community in excess of \$100,000. There are many condo developments within the Town of Lincoln. School age children in two bedroom condominiums is 10 to 100. Most of the developments that have two bedroom style condominiums have 3 students per unit. He used three but feels there may be one or two children per unit. Page 4 of his report cites total projected expenses for 3 students would be \$11,937 per child or \$35,811. The annual cost to the community would be about \$100,000 were there to be three students students.

On the revenue side, five of these units will be assigned low and moderate. As such the sale price would be \$150,000 versus \$235,000.

Using the current tax rate, they will generate approximately \$211,000 of income to the community on an annual basis and those assessments are based on 100% residential. When comparing the costs and revenues, you can see the total cost at \$109,000 compared to the estimated revenue resulted in a net positive of \$101,000.

Chairman Arsenault read into the record Planning Board recommendations:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends approval with conditions of this use variance. The

Board feels that the proposed application is consistent with the housing, land use, economic development, and growth management sections of the Town of Lincoln's Comprehensive Plan (pg. 80). The Comprehensive Plan specifically notes that, "use of mill buildings in the Saylesville industrial park must be encouraged", (pg 81). The proposed mix-use of this now vacant property will be a less intensive use of the parcel. Residential and light business uses currently surround this area and the proposed development will compliment the established residential neighborhood across the street. Based on the Comprehensive Plan's objectives, the Town developed a proposed zoning ordinance amendment for mill conversion. This amendment would establish the conversions of existing mill buildings into residential use as a special use permit. There is one difference that this application does not provide for but the proposed amendment requires and that is the requirement of affordable units. The affordable housing requirement is noted in the Affordable Housing Production Plan. Other than this difference, this application could easily fit within the objectives and standards of the proposed amendment.

The Planning Board recommended conditions of approval are; the applicant establish 10% (rounded up) of the proposed units as affordable as discussed in the Town's Affordable Housing Production Plan, the applicant come before the Zoning Board to address the pre-existing setback conflicts of the building, and, the applicant research, locate and document on the plans the existing drainage line

easement that originates at Ballou Avenue and transverse through the property to the abutting pond.

The Planning Board also wanted to inform the applicant that this application would be considered as a major land development and therefore would have to be reviewed by the Planning Board. Below are several concerns that the Board would be considering during this review. The TRC and the Planning Board will review items such as: existing and proposed utilities, fire department accessibility, traffic conditions, and proposed landscaping. The Planning Board is also interested in what is proposed for the rear of the building and the existing load dock and covered area.

In Favor:

Bernard Benoit, Owner Sayles Mill Realty

He also has an application before the Board this evening for conversion of a mill site. Feels what applicant is proposing is a good use of old mills and will generate town revenue. Mill buildings are old and no longer useful and we need to find a new use for them. The proposed building has been cleaned up and this is a good use for them.

In Favor:

Michael Berman

He owns a mill building in the area and there is limited use for these sites. His building is currently used for warehousing. Feels there is a lack of tenants for these old mills.

Opposed:

John Gustafson, 90 Industrial Circle, Lincoln

Applicant's site is 5 feet away from this building. He operates a cabinet making business out of the mill he owns and there are many trucks traveling the road every day. Feels would be dangerous for children.

Opposed:

Jeremiah O'Grady, 24 Parker Street, Lincoln

He is a member of the Town Council and objects to the granting of this variance because he is troubled with the process this applicant is seeking to bring reuse concepts to life. The bleachery complex is zoned for manufacturing and residential uses are not allowed. This type of application requires evidence be entered into the record showing that the subject land cannot yield any beneficial use. The applicant is required to show that they have lost all of their beneficial use. The applicant has stated that no beneficial use is possible under the current zone and have spent 9 years trying to rent this out to uses allowed under our zoning code but has shown no evidence. Any revision is the purview of the Town Council and not the Zoning Board. If this Board approves this application and the one following

it on tonight's agenda the Board will be carrying out a piecemeal rezoning of the Lincoln Bleacherie complex. State law prohibits this under RIGL 45-24-41 and states "...the hardship from which the applicant seeks relief must be due to the unique characteristics of the subject and or structure and not to the general characteristics of the surrounding area." Something needs to be done but not by this Board. The use being sought tonight would be allowed if the Town Council approves the mill converted overlay district which is on their table now. The Town Council may or may not approve this proposal based on careful deliberation, public comment and majority vote. It is his opinion that if the Zoning Board approves this application they will be shortcircuiting the Council's legislative authority as granted under State law. The owners of the NAFTA Mills sought a similar zone change and the Town Council approved that zone change. The Town Council has had two public hearings so far and a third was scheduled but had to be canceled because of improper posting. There are several items that need to be addressed and should receive quick action.

Attorney Kelly addressed the Board stating they have the authority to pass on the application. The issues raised by Mr. O'Grady stated that the cabinet shop is in severe financial distress and not sure how long they will be there. Applicant has stated that he has tried over the years to lease the building but has been unable to do so. It is not an economical beneficial use. Hardship is not caused by the applicant and existing structure and existing zoning is causing the hardship.

Manufacturing uses are no longer feasible for this site. Tax benefits to the town are significant. The building has been vacant for years and this is a good use for it.

Chairman Arsenault asked Attorney Gannon if the application was properly before the Zoning Board. Attorney Gannon replied that state law authorizes the Zoning Board to grant this Use Variance.

Motion made by Member Halmi to approve the Use Variance with a condition that 10% (rounded up) of the proposed units be set aside as affordable as discussed in the Town's Affordable Housing Production Plan; the applicant address the pre-existing setback conflicts of the building; and, the applicant research, locate and document on the plans the existing drainage line easement that originates at Ballou Avenue and transverse through the property to the abutting pond. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**

- The relief requested is the least relief necessary.
- The subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.

Motion seconded by Member Russo. Motion carried with a 4-1 vote with Members Russo, Halmi, Karempetsos and Chairman Arsenault voting aye and Member Gobeille voting nay.

Inland American Retail Management LLC, 2901 Butterfield Road, Oakbrook, IL – Special Use Permit to increase tenant and ownership square footage signage on exterior of property located at 622 George Washington Highway, Lincoln, RI.

AP 41, Lot 7 Zoned: BL 05

Represented by: Michelle Green

Ms. Green addressed the Board and asked that applicant requests their application be continued for two months to the December agenda.

Motion made by Member Karempetsos to continue the application to the December 5th agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Thomas & Joyce Burlingame, 37 Kilburn Avenue, Lincoln, RI – Dimensional Variance for front yard setback for the construction of an addition.

AP 10, Lot 292 Zoned: RG 7

Member Russo sat on this application with full privileges

Attorney Krieger stated for the record that he conducted the closing when applicant purchased the property. He has no financial interest in the property and does not see a conflict by sitting on this application.

Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance.

Represented by: John Shekarchi, Esquire

Submitted into the record photos depicting the interior and exterior of the site (Exhibit #1) and architectural plans (Exhibit 2). Two notices were returned so he had applicant speak to their neighbors and hand delivered notice to Linda Felber, 225 Chapel Street and Elaine Condon, 37 Kilburn Avenue, Lincoln. Both hand delivered notices were notarized.

Applicant's family has grown and they need the extra room. This is a uniquely shaped corner lot and a sub-standard lot with the house fronting on Kilburn and Tucker. Entrance to the home is located on Kilburn Avenue. Applicant is seeking 11.37 foot southerly side yard setback and .22 front yard relief. They have Town sewer and water. The Planning Board found that the proposal met with the

Comprehensive Plan, will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance (Recommendation submitted as Exhibit #3) . Applicant spoke with neighbors and they have no objection to what is before the Board.

Witness

Edward Pimental, AICP

He appeared before this Board earlier this evening and was accepted as an expert witness. Submitted into evidence his report dated October 3, 2006 (Exhibit #4). House sits on a uniquely shaped lot with 40 feet in width along Kilburn. It is a pre-existing structure on a corner lot. Submitted into the record Tax Assessor field card showing irregular shaped lot (Exhibit #5). The total overall living area is only has 984 sq.ft. Applicants have 2 children who are sharing a room. There is an older child that comes to visit for extended periods and they need space. An analysis of structures within a one block area shows the average footprint for this neighborhood is 1,037 sq.ft. Once completed, the applicants will have 1,078 sq.ft. of living space.

Joyce Burlingame, Applicant

House fronts on Kilburn with driveway on Tucker Street. They plan on vinyl siding and adding shutters once addition is completed.

Member Halmi asked applicant if she would be willing to have a window next to a front door to keep house similar to other homes in

the area Applicant stated she had no objection to placing a window next to the front door as a condition of approval.

In Favor

Michael Cote, Neighbor

He feels applicants need the extra space for the children and has no objection to their proposal.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends approval of the application for a dimensional variance. The Board feels that due to the unique characteristics of the structure, and the limiting size of the property, the application meets the standards of relief for a dimensional variance. The Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Member Halmi to grant a .22 front yard and 11.37 foot southerly side yard setback with the condition that the window next to the existing door will reflect an entrance to the home. She further stated:

- The hardship from which the applicant seeks is due to the unique characteristics of the subject land or structure and not due to the**

general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.

- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Gary & Lori Rosa, 34 Westwood Road, Lincoln, RI –Use Variance for a two family dwelling (existing) as part of a new subdivision.

AP 16, Lot 10 Zoned: RS 12

Gary & Lori Rosa, 34 Westwood Road, Lincoln, RI –Dimensional Variance for front and side yard setback.

AP 16, Lot 10 Zoned: RS 12

Represented by: Michael Horan, Esquire, 393 Armistice Boulevard, Pawtucket, RI

Attorney Horan addressed the Board stating that applicant wanted to withdraw their application with prejudice for the Use Variance as they felt they did not need relief relative to their pending petition. It is an existing non-conforming use as to that lot which is not is question..

Attorney Krieger cited Article 7(G) Subsection 1. The Planning Board had an issue of whether this structure was a legally existing two family home. He asked the zoning official to check into it. While the utility hookups indicate it is a single family the field cards in the assessor's office reflects it is a two family. Russ Hervieux researched this and found that the Town had no evidence in its records regarding the two family use. The house itself predates zoning. Issue here is that applicant is reducing the square footage of the lot. Attorney Horan replied that is correct but it still meets the total required square footage for the district as reconfigured. It's 12,000 sq.ft and with their proposed subdivision its 22,000 sq.ft for one and 13,000 sq.ft for the other.

Attorney Krieger informed the Board that by reducing the square footage of the lot it is considered intensification of use. Page 61, Subsection 9, Article 7(E) states that the proposal to reduce the square footage of the lot on a non confirming structure amounts to intensification of use. If the Board makes a determination that the proposal before it results in intensification the applicant is required to

obtain a use variance. He does not believe the Board would get to the second application for dimensional relief until the Board finds that it is not intensification or that it does so find and on the presentation of the applicant's case based upon the evidence presented it grants a use variance.

Chairman Arsenault informed Attorney Horan that the Technical Review Committee was unable to render a recommendation on this application. Al Ranaldi, Town Planner informed Chairman Arsenault that the Planning Board chose not to and could not render a conclusion as they did not have enough information regarding the two family use.

Attorney Horan informed the Board that he was not prepared to make his presentation on the Use Variance application. It is an existing use and feels they only need relief for frontage relative to the new lot line and what they are asking for is not an intensification in excess of the required 12,000 sq.ft. Intensification relates to the reduction and the magnification of the use relative to the lot and in this case it is their position it is not an intensification as defined in our statutes.

Chairman Arsenault suggested the application be continued so the matter can be researched. Attorney Horan agreed and asked that the two applications be continued to the November 14th agenda.

Motion made by Member Halmi to continue the Use Variance

application to the November agenda. Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote.

Motion made by Member Halmi to continue the Dimensional Variance application to the November agenda. Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote.

Sayles Mill Realty, 85 Industrial Circle, Lincoln, RI – Use Variance for the operation of a personal trainer/fitness center.

AP 2, Lot 88 Zoned: MG 05

Chairman Arsenault read into the record standards that need to be met for a Use Variance.

Bernard Benoit, Owner

He has owned the building for ten years and has tried to lease space to tenants. Appeared before the Zoning Board one year ago on a similar application for a Pilates and dance studio. The dance studio currently rents 6,000 sq.ft. of space. Has a tenant wanting to lease 6,000 sq.ft. subject to his application before the Board tonight being approved. The parking area is laid out for 150-160 cars. Forty percent of the building is vacant. Applicant has also updated the fire alarm and sprinkler system in the building.

Chairman Arsenault read into the record correspondence dated September 29, 2006 from the Saylesville Fire Department listing improvements which have been made at 85 Industrial Circle (Exhibit #1):

- New fire alarm system has been installed in the three story section of the building and will be extended to the entire complex**
- Rated egress corridors and fire doors have been installed**
- Emergency lighting and egress signs have been installed**
- Sprinkler system has been upgraded to include new fire department connection, back flow device, new shut off valves and sprinkler heads.**
- Fire department access boxes have been installed**

Applicant has twelve existing tenants which have been well received by the community. Applicant is responsible for snow removal at the site.

Applicant informed the Board that he is willing to restripe and repaint the parking lot; would like to meet with the existing tenants to address the lighting concerns; plans on installing signage on the Walker Street side in the spring of 2007.

Member Halmi asked where the new tenant would be located. Applicant replied on the first floor behind the dance studio which moved in one year ago. Member Russo read into the record the last two sentences of Planning Board's recommendations: "The Planning

Board in general likes the reuse of the building but stresses the need to improve pedestrian safety. The Planning Board would appreciate the opportunity to review a more detailed site plan and application that addresses these concerns.” Member Russo would like to see the applicant return to the Planning Board with more details of what he is proposing. Applicant replied he is willing to do whatever the Planning Board asks and has already spoken with Al Ranaldi, Town Planner and Russell Hervieux, Zoning Official. He would also like to install speed bumps and will return before this Board when he is ready to install signage on the building. Total square footage rented will be about 18,000 sq.ft. Chairman Arsenault stated what people are asking for is an overall plan of what his vision is for the mill. The Board is approving tenants on a piecemeal basis but if they had a context that the Planning Board, Technical Review Committee and Zoning Officials could give him an overall feedback on what his overall concept is. Applicant replied there was no way he could give a definite vision of what future tenants would want. Chairman replied he felt applicant could prepare a site plan depicting some of the Planning Board concerns.

Attorney Krieger addressed the Board stating he did not believe he was sitting when the application came for the Pilates and dance studio but knows he sat through an earlier application for a mill in that same area and that applicant presented a lot of evidence on the record by which this Board could make its decision. Other than the applicant’s brief testimony that he tried to rent it, if the Board is

satisfied with that and he has met his burden regarding the standards that need to be met and perhaps the Board could give applicant direction on what further evidence he needs and return or if the Board is satisfied and grants a use variance. It appears that every time he gets a new tenant he returns to the Board for a Use Variance. Chairman Arsenault informed the applicant that the Planning Board has asked for more details and feels he needs to answer some of the questions presented to him. At this time the Planning Board is recommending approval but with conditions.

Member Halmi wanted to go forward on the application. She does not want him to lose a prospective tenant because with the economy the way it is and she would have to see him lose someone interested in renting space. She recommended approval with the condition that the safety issues outlined by the Planning Board be addressed. Applicant replied if the Board would be in favor of granting the Use Variance he would bring a list of all concerns to the Zoning Official for a site review. If all concerns were not met at that time, a cease and desist could be issued until all matters were taken care of.

Chairman Arsenault read into the record Planning Board recommendations:

Members of the Technical Review Committee visited the site and reviewed the submitted site plan and application. The Planning Board recommends Approval with Conditions on this use variance application. On August 2, 2005, a use variance was granted for

similar uses in the same building. The approval was granted with several conditions to improve pedestrian safety. While the conditions were successfully incorporated into the site, the Planning Board feels that additional efforts should be made to improve pedestrian safety. For example, the Planning Board feels that the striping of the parking lot and crosswalk has faded and should be redone. The Planning Board recommends using thermo plastic reflective striping. Also, the current lighting is not significant. Several clients of the new businesses have noted the dark conditions of the site. Signage has not been addressed. The Planning Board feels that the applicant needs to provide some type of signage to direct people around the site. Future signage needs of other tenants should also be taken into consideration. The Planning Board in general likes the reuse of the building but stresses the need to improve pedestrian safety. The Planning Board would appreciate the opportunity to review a more detailed site plan and application that addresses these concerns.

Al Ranaldi, Technical Review Committee informed the Board that a condition of approval could be that when applicant comes in for a building permit he comply with the specific recommendations of the Technical Review Committee and that signage be addressed.

In Favor

Michael Berman

Informed Board that applicant has integrity and will do whatever needs to be done at the site.

Opposed

Jeremiah Grady

He is not opposed to the concept but the way the application is moving forward. This is not an allowed use under current zoning. There are burdens that need to be met. Beneficial use is not an issue and this is not a unique hardship to this particular building or structure. This is the same argument he heard on an earlier application. He feels this proposed use could wait one month. Town Council has the sole right to amend the zoning ordinance and through its amendment may add additional restrictions or burdens. The earlier application got away with 10% affordable housing and the proposed overlay district requires 25%. A financial hardship cannot motivate a Use Variance. He is not opposed to the concept but feels application should not be before this Board.

Chairman Arsenault asked Attorney Mark Krieger if the Use Variance application was properly before the Zoning Board. Attorney Krieger informed the Board that the Zoning Board is empowered by state statute to hear applications for Use Variance. The proposed use is not an allowed use within the manufacturing zone so the only way this proposed use can exist there is through either a zone change or a Use Variance. Attorney Krieger also stated that the solicitor's office needs to write up a decision on this application and asked that the member making the motion specifically refer to the standards and

testimony or evidence that has been presented tonight that is in support or against the standards.

Member Halmi made a motion to approve the Use Variance for a personal trainer/fitness center tenant at the site which would be a complimentary use to what is already there other than manufacturing with a condition that applicant must go to the Building Official to address all of the concerns regarding pedestrian safety in writing that the Planning Board noted in their recommendation:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and structure and not due to the general character of the surrounding area. It is difficult to maintain the old mill buildings strictly as manufacturing and a mixed use seems to be more workable. Surrounding area is both a mix of residential and mill buildings.
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. 60% of the site is occupied with 40% unoccupied which is a huge number.
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. There is zoning legislation which may or may not go into effect soon and the intent of the Town is to encourage the development of its mill buildings.
- The relief requested is the least relief necessary.
- The subject land or structure cannot yield any beneficial use if it is

required to conform to the provisions of the zoning ordinance. If the owner of this building is required to lease out his space only as manufacturing and he is not able to do so, he may maintain a building with 40% unoccupied and may lose his property and the use of it.

Motion seconded by Member Karempetsos. Motion carried with a 4-1 vote with Members Gobeille, Halmi, Karempetsos and Chairman Arsenault voting aye and Member Russo voting nay.

Sandy Sidoti/AT Cross, One Albion Road, Lincoln, RI – Special Use Permit for the installation of signage.

AP 28, Lot 41 Zoned: ML 05

Member Rampone sat on this application with full privileges.

Russell Hervieux, Zoning Official informed the Board that two notices had been returned. Addresses on notices were obtained from the Town's field cards. There were no street addresses on the notices but there was no address listed on the field cards. The two notices were addressed to the Town of Lincoln for property obtained through a tax sale which has not been redeemed. The Town has not foreclosed on the property. Attorney Krieger informed the Board that notice was satisfied.

Chairman Arsenault informed applicant that the submitted application should have been signed by a corporate officer of AT Cross.

Applicant informed the Board that her supervisor had instructed her to sign the application. Chairman informed her that in the future a representative of AT Cross should sign all applications.

Chairman Arsenault read into the record standards that need to be met for a Special Use Permit.

Witness:

Sandi Sidoti, AT Cross

AT Cross is changing their image and needs to install new signage and eliminate some of the old. Submitted into the record color photos of the proposed new signs (Exhibit #1). AT Cross wants to eliminate signage on Albion Road and Route 116 and replace them with more tasteful signs.

- The new signs will be directional to the new retail store and will be 140.57 sq.ft. (includes company store sign).**
- The awning will be replaced (2.14 sq.ft).**
- The sign facing Albion Road on the building will be 140.57 sq.ft.**
- Directional signs to be moved to the second driveway will be double sided 12.5 sq.ft per side X 2 sides = 25 sq.ft.**
- Sign leading into the second entrance will be 25 sq.ft.**
- Double sided replacement sign on Albion Road $4 \times 8.1 = 97.5 \times 48$ divided by 144 = $32.5 \times 2 = 65$ sq.ft.**
- Brown and beige directional sign will be 77.56 sq.ft**
- SIGNAGE TOTALS 475.84 SQ.FT. MINUS 64sq.ft allowed = 411.84 sq.ft.**

Witness:

Tom Mandeville, Mandeville Signs

Letters for company store will be made of dimensional metal and lights will be lit externally by gooseneck light fixtures with 90 watts per fixture. Same will apply to signs parallel to Albion Road. The awning will not be illuminated. The directional signs will be internally illuminated with florescent lamps. All metal work is rust resistant. The sign at the end of the parking lot will also be internally illuminated. The Albion Road directional sign will be illuminated with double face directionals.

Applicant informed the Board that the store hours of operation will be Monday-Friday 8:00am-6:00pm and Saturday from 10:00am-5:00pm. They will also have holiday hours. There will be no overnight lighting at the site.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the installation of additional signs. The application requests the addition of six new signs to define the location of the existing building use and the location of the new retail use. The site plans specifically details the location and type of the new proposed signage. The Planning Board

feels that due to the unique nature of the building and more specifically the layout of the facility, that the requested signage will clarify pedestrian and vehicular entrances and traffic flow.

Motion made by Member Russo to grant a Special Use Permit for total proposed signage of 475.84 sq.ft. with conditions that an authorized representative from AT Cross shall come in and sign the application on file in the Building Official's office and applicant shall conform with no illumination from 10:00 pm to 6:00am. He further stated:

- Special Use Permit meets all criteria set forth in the Zoning Ordinance authorizing such special use;**
- That granting of the Special Use Permit will not alter the general character of the surrounding area**
- That the granting of the Special Use Permit will not impair the intent or purpose of the Zoning ordinance nor the Lincoln Comprehensive Plan.**

Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

Motion made by Member Russo to adjourn the meeting. Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Ghislaine D. Therien

Recording Secretary